

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

KENNETH JAMES TOLMAN )  
v. ) Civil Action No. 12-935  
WILLIAM CAYE; *ET AL.*, ) District Judge Terrence F. McVerry  
Defendants. )  
                        )

**MEMORANDUM ORDER**

On July 9, 2012, the above captioned case was filed in this Court and was referred to a magistrate judge for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and the Local Rules of Court for Magistrate Judges.

The Magistrate Judge filed a Report and Recommendation on November 30, 2012 (ECF No. 14) recommending that the action be dismissed for failure to prosecute. Plaintiff was served with the Report and Recommendation at his listed address and was advised that he had until December 17, 2012 to file written objections to the Report and Recommendation. No objections have been filed.

After *de novo* review of the pleadings and documents in the case, together with the Report and Recommendation, the following order is entered:

**AND NOW**, this 19<sup>th</sup> day of December, 2012:

**IT IS HEREBY ORDERED** that this action is **DISMISSED** for failure to prosecute.

**IT IS FURTHER ORDERED** that the pending Motion to Dismiss (ECF No. 9) is **DISMISSED** as moot.

**IT IS FURTHER ORDERED** that the Report and Recommendation dated November 30, 2012 (ECF No. 14) is **ADOPTED** as the Opinion of the Court.

**IT IS FURTHER ORDERED** that the Clerk of Court mark this case **CLOSED**.

**AND IT IS FURTHER ORDERED** that pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure, Plaintiff has thirty (30) days to file a notice of appeal as provided by Rule 3 of the Federal Rules of Appellate Procedure.

By the Court:

s/ Terrence F. McVerry  
Terrence F. McVerry  
United States District Judge

Kenneth James Tolman  
1000 5th Ave., #19  
McKeesport, PA 15132